

IN THE WATER COURT OF THE STATE OF MONTANA
LOWER MISSOURI DIVISION
MUSSELSHELL RIVER ABOVE ROUNDUP BASIN (40A)
PRELIMINARY DECREE

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CLAIMANT: Barbara A. Hereim

OBJECTOR: United States of America (USDA Forest Service)

CASE 40A-0592-R-2022
40A 20726-00

NOTICE OF FILING OF MASTER'S REPORT

This Master's Report was filed with the Montana Water Court on the above stamped date. Please review this report carefully.

You may file a written objection to this Master's Report within **10 days** of the stamped date if you disagree or find errors with the Master's findings of fact, conclusions of law, or recommendations. Rule 23, W.R.Adj.R. If the Master's Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must serve a copy of the objection to all parties on the service list found at the end of the Master's Report. The original objection and a certificate of mailing to all parties on the service list must be filed with the Water Court.

If you do not file a timely objection, the Water Court will conclude that you agree with the content of this Master's Report.

MASTER'S REPORT

Claim 40A 20726-00 appeared in the Preliminary Decree for the Musselshell River above Roundup (Basin 40A) issued on June 7, 2017. The claim is owned by

Barbara A. Hereim. The claim received an objection from the United States Department of Agriculture, Forest Service.

FINDINGS OF FACT

1. Claim 40A 20726-00 appeared in the Basin 40A Preliminary Decree as a claim for stock drinking directly from Deep Creek.
2. The claim was decreed with the following points of diversion and places of use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			W2E2	2	7N	9E	MEAGHER
2			NE	11	7N	9E	MEAGHER
3			W2W2	12	7N	9E	MEAGHER
4			W2W2	13	7N	9E	MEAGHER
5			E2E2NE	14	7N	9E	MEAGHER
6			E2E2SW	35	8N	9E	MEAGHER

3. The Forest Service's objection states:

The place of use/point of diversion description should be corrected, and a clarifying remark--specifying that the water used on National Forest System land is appurtenant to certain private lands--should be added to the claim.

4. The parties filed a stipulation resolving the Forest Service's objection. (Doc.¹ 4.00).

5. The stipulation proposes the following modifications to the point of diversion and place of use:

<u>ID</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	W2E2	2	7N	9E	MEAGHER
2	NE	11	7N	9E	MEAGHER
3	W2W2	12	7N	9E	MEAGHER
4	<u>W2NW</u> W2W2	13	7N	9E	MEAGHER
<u>5</u>	<u>NWSW</u>	<u>13</u>	<u>7N</u>	<u>9E</u>	<u>MEAGHER</u>
6	E2E2NE	14	7N	9E	MEAGHER

6. The requested modifications refine the W2W2 of Section 13 legal land description that was decreed on the claim.

PRINCIPLE OF LAW

1. If a claimant agrees to reduce or limit a claim, the Water Court may accept the reduction or limitation without reviewing further evidence, unless an unresolved issue remark remains. Rule 17(c), W.R.Adj.R.

¹ "Doc." numerical references correlate to case file docket numbers in the Water Court's Full Court case management system.

CONCLUSION OF LAW

1. The refinement of the W2W2 of Section 13 to the W2NW and the NWSW of Section 13 is a reduction to the point of diversion and place of use. The point of diversion and place of use should be modified accordingly. These modifications resolve the Forest Service's objection to claim 40A 20726-00.

RECOMMENDATIONS

Based on the foregoing Findings of Fact and Conclusion of Law, this Master recommends that the Court adopt modify the point of diversion and place of use as outlined above.

A post decree abstract of the water right claim reflecting the recommended changes is attached to this Report.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

Barbara A. Hereim
1449 MT HWY 294
Martinsdale, MT 59053

Joseph T. Mathews
US Dept of Justice
Ben Franklin Station
PO Box 7611
Washington, DC 20044

Service Via Electronic Mail:

Jennifer A. Najjar
US Dept of Justice, ENRD-NRS
PO Box 7611
Washington, DC 20044-7611
(202) 305-0476
Jennifer.Najjar@usdoj.gov
MontanaBasins.ENRD@USDOJ.GOV

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MUSSELSHELL RIVER, ABOVE ROUNDUP
BASIN 40A

Water Right Number: 40A 20726-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: BARBARA A HEREIM
1449 MT HWY 294
MARTINSDALE, MT 59053 8708

Priority Date: JUNE 1, 1930

Type of Historical Right: USE

Purpose (use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name: DEER CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		W2E2	2	7N	9E	MEAGHER
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
2		NE	11	7N	9E	MEAGHER
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
3		W2W2	12	7N	9E	MEAGHER
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
4		W2NW	13	7N	9E	MEAGHER
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
5		NWSW	13	7N	9E	MEAGHER
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
6		E2E2NE	14	7N	9E	MEAGHER
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					

7 E2E2SW 35 8N 9E MEAGHER

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			W2E2	2	7N	9E	MEAGHER
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5			NWSW	13	7N	9E	MEAGHER
6			E2E2NE	14	7N	9E	MEAGHER
7			E2E2SW	35	8N	9E	MEAGHER

Remarks:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

20726-00

20745-00